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NOTICE OF ALLOWANCE AND FEE(S) DUE

38396

7590

03/16/2006

JOHN BRUCKNER, P.C. 5708 BACK BAY LANE AUSTIN, TX 78739



EXAMINER

WELLS, NIKITA

ART UNIT PAPER NUMBER

2881

DATE MAILED: 03/16/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,770	11/19/2003	Michael A. Guillorn	UBAT1530	6209

TITLE OF INVENTION: VERTICALLY ALIGNED NANOSTRUCTURE SCANNING PROBE MICROSCOPE TIPS

APPLN. TYPE	SMALL ENTITY ISSUE FEE		PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	nonprovisional NO		\$300	\$1700	06/16/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

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- B. If the status above is to be removed, check box 5b on Part B Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.
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- III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Complete and send this form, ogether with applicable fee(s), to: Mail Mail Stop ISSUE FEE

MAR 3 0 2006

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maintenance fee notifications. Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission. CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address) 38396 7590 03/16/2006 Certificate of Mailing or Transmission I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below. JOHN BRUCKNER, P.C. 5708 BACK BAY LANE **AUSTIN, TX 78739** (Depositor's name) (Signature) (Date APPLICATION NO.. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 10/716,770 11/19/2003 Michael A. Guillorn **UBAT1530** 6209 TITLE OF INVENTION: VERTICALLY ALIGNED NANOSTRUCTURE SCANNING PROBE MICROSCOPE TIPS APPLN. TYPE SMALL ENTITY **ISSUE FEE PUBLICATION FEE** TOTAL FEE(S) DUE DATE DUE nonprovisional NO \$1400 06/16/2006 **EXAMINER** ART UNIT CLASS-SUBCLASS WELLS, NIKITA 2881 250-306000 1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). 2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. or agents OR, alternatively, (2) the name of a single firm (having as a member a "Fee Address" indication (or "Fee Address" Indication form registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required. listed, no name will be printed. 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type) PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment. (A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY) 4a. The following fee(s) are enclosed: 4b. Payment of Fee(s): ☐ Issue Fee A check in the amount of the fee(s) is enclosed. ☐ Publication Fee (No small entity discount permitted) Payment by credit card. Form PTO-2038 is attached. Advance Order - # of Copies The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number (enclose an extra copy of this form). 5. Change in Entity Status (from status indicated above) a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. □ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2). The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office. Authorized Signature

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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JOHN BRUCKI	NER, P.C.	OIPA	WELLS,	NIKITA .
5708 BACK BAY			ART UNIT	PAPER NUMBER
AUSTIN, TX 787		MAR 3 0 2006 &	2881 DATE MAILED: 03/16/2006	6

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 18 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 18 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

-	Application No.	Applicant(s)
•	10/716,770	GUILLORN ET AL.
Notice of Allowability	Examiner	Art Unit
	Nikita Wells	2881
	Nikita vveiis	2001
The MAILING DATE of this communication appeal All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIOF of the Office or upon petition by the applicant. See 37 CFR 1.313	(OR REMAINS) CLOSED in this or other appropriate communical IGHTS. This application is subjection	s application. If not included ation will be mailed in due course. THIS
1. This communication is responsive to <u>"Response to Office Anderson and Anderson a</u>	Action Dated: June 9, 2005" rece	eived 9 November 2005.
2. The allowed claim(s) is/are <u>24-46,71-84 and 86-95</u> .		-
 3. Acknowledgment is made of a claim for foreign priority ur a) All b) Some* c) None of the: 1. Certified copies of the priority documents have 2. Certified copies of the priority documents have 	e been received.	
Copies of the certified copies of the priority do	• •	
International Bureau (PCT Rule 17.2(a)).		3 11
* Certified copies not received:		
Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONN THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.		eply complying with the requirements
4. A SUBSTITUTE OATH OR DECLARATION must be subm INFORMAL PATENT APPLICATION (PTO-152) which give		
5. CORRECTED DRAWINGS (as "replacement sheets") must	st be submitted.	·
(a) including changes required by the Notice of Draftspers	on's Patent Drawing Review (P	TO-948) attached
1) hereto or 2) to Paper No./Mail Date		
(b) including changes required by the attached Examiner's Paper No./Mail Date		
Identifying indicia such as the application number (see 37 CFR 1 each sheet. Replacement sheet(s) should be labeled as such in t		
6. DEPOSIT OF and/or INFORMATION about the depo attached Examiner's comment regarding REQUIREMENT		
Attachment(s)	.	1.D. 1.A. 11. 11. (DTO 1.70)
1. Notice of References Cited (PTO-892)	•	nal Patent Application (PTO-152)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)	6. ☐ Interview Summ Paper No./Mail	
 Information Disclosure Statements (PTO-1449 or PTO/SB/0 Paper No./Mail Date 14 November 2005 		
Examiner's Comment Regarding Requirement for Deposit of Biological Material	8. 🛛 Examiner's Stat	ement of Reasons for Allowance
	9. 🗌 Other	
		Nikita Wells Primary Examiner Art Unit: 2881

Application/Control Number: 10/716,770

Art Unit: 2881

DETAILED ACTION

Allowable Subject Matter

- 1. Claims 24-46, 71-84, and 86-95 are allowed.
- 2. The following is an examiner's statement of reasons for allowance:

The Applicant amended claims 24-33, 35-36, 38-40, 42, 46, 71-80, 82-83, 86-89, 91, and 95, canceled claim 85, and presented arguments in favor of allowance of the claims according to the "Response to Office Action Dated: June 9, 2005" received November 9, 2005. Claims 1-23 and 47-70 were previously withdrawn from consideration as being drawn to a nonelected invention. With respect to the independent claims 24 and 71, the Applicant demonstrated to the Examiner's satisfaction that the 35 U.S.C. 102(b) and 35 U.S.C. 103(a) rejections over the references of Lieber et al. (6,743,408 B2), Colbert et al. (2002/0084410 A1), and Merkulov et al. (2002/0117951), are not applicable to the Applicant's invention.

With respect to claims 24 and 71, Lieber et al., Colbert et al., Merkulov et al., as well as any other prior art, fail to disclose an apparatus, comprising a cantilever structure including, in combination with other recited features of the claim limitations: a substrate including a cantilever body; and a substantially <u>vertically aligned</u>, with respect to a plane of the cantilever body, <u>elongated nanostructure coupled to the cantilever body</u>.

Therefore, the independent claims 24 and 71 are allowed. The dependent claims 25-46, and 72-84 and 86-95, are allowed by virtue of their dependence upon claims 24 and 71, respectively.

Application/Control Number: 10/716,770

Art Unit: 2881

The claim objections as spelled out on pages 3-6 of the "June 9th Office Action" are withdrawn after consideration of the explanations provided by the Applicant and the cancellation of claim 85.

Conclusion

- 3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
- 4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita Wells whose telephone number is (571) 272-2484. The examiner can normally be reached on 8:30 AM 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on (571) 272-2477. The central fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 2881

Nikita Wells, Primary Examiner Art Unit 2881

March 13, 2006

PTO/SB/08A (04-03)

O PE INFORMATION DISCLOSURE			Applic	Application Number		10/716,770				
			Filing	Date		November 19, 2003				
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PTO/SB/08B (04-03)

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V s	STATEMENT BY APPLICANT			Filing Date	Noven	nber 19, 2003				
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Sheet 1 of 2					Examiner Name	Eerna	ndez, Kalimah N, K, Ya. Well-			
Sheet	Sheet 1 of 2				Attorney Docket Numbe	r UBAT1	UBAT1530			
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STATEMENT BY APPLICANT				ICANT	Filing Date	Novem	nber 19, 2003		
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					Examiner Name	Fernar	ndez, Kalimah Nikita Well		
Sheet 2 of 2 Attorney Docket N				2	Attorney Docket Numbe	UBAT1	530		
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